

EXHIBIT B

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY, INC. MDL No. 2419
PRODUCTS LIABILITY LITIGATION Master Docket
1:13-md-02419-RWZ

- - - - -

VIDEOTAPED DEPOSITION DUCES TECUM
OF RITU T. BHAMBHANI, M.D.

Wednesday, February 10, 2016

Reported by: Lori J. Goodin, RPR, CLR, CRR,
Realtime Systems Administrator
Assignment No. 26236



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4 The deposition of RITU T. BHAMBHANI, M.D.,
5 was convened on Wednesday, February 10, 2016,
6 commencing at 10:01 a.m., at the offices of

7
8 PESSIN KATZ LAW
9 Suite 400
10 901 Dulaney Valley Road
11 Towson, Maryland 21204

12
13 before Lori J. Goodin, Registered Professional
14 Reporter, Certified LiveNote Reporter, Certified
15 Realtime Reporter, Realtime Systems
16 Administrator, and Notary Public in and for the
17 State of Maryland.



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APPEARANCES

For Plaintiffs:

HARRY ROTH, ESQUIRE

MICHAEL COREN, ESQUIRE

COHEN PLACITELLA & ROTH, P.C.

2001 Market Street

Suite 2900

Philadelphia, PA 19103

215-567-3500

hroth@cprlaw.com

mcoren@cprlaw.com

And Co-counsel:

PATRICIA KASPUTYS, ESQUIRE

SHARON L. HOUSTON, ESQUIRE

LAW OFFICES OF PETER G. ANGELOS

One Charles Center

100 North Charles Street

22nd Floor

Baltimore, Maryland 21201

410-649-2000

pjk@lawpga.com

shouston@lawpga.com



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APPEARANCES CONTINUED

For Defendant:

GREGORY KIRBY, ESQUIRE

CATHERINE W. STEINER, ESQUIRE

PESSIN KATZ LAW

Suite 400

901 Dulaney Valley Road

Towson, Maryland 21204

410-938-8800

gkirby@pklaw.com

csteiner@pklaw.com

ALSO PRESENT:

Meeko Goodhill, videographer



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PROCEEDINGS

THE VIDEOGRAPHER: We are now on record. This is Tape Number 1 to the videotaped deposition of Dr. Ritu Bhambhani taken in the matter of In Re: New England Compounding Pharmacy, Inc., Products Liability Litigation.

This deposition is being held at Pessin Katz Law, located at 901 Dulaney Valley Road, Suite 500, Towson, Maryland, 21204, on Wednesday February 10th, 2016, at 10:01 a.m.

My name is Meeko Goodhill and I am the videographer. The court reporter is Lori Goodin.

Counsel please introduce yourselves for the record, please.

MR. ROTH: My name is Harry Roth. I am from the firm of Cohen Placitella & Roth, and I represent the estate of Brenda Rozek.

MR. COREN: Michael Coren on behalf of multiple plaintiffs and the estate of Brenda Rozek.

MS. HOUSTON: Sharon Houston on behalf of multiple plaintiffs of the Law



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1 Offices of Peter Angelos.

2 MS. KASPUTYS: Patricia Kasputys,
3 also with the Law Offices of Peter Angelos on
4 behalf of multiple plaintiffs.

5 MS. STEINER: Catherine Steiner on
6 behalf of Dr. Ritu Bhambhani, Ritu Bhambhani,
7 M.D., LLC, and Box Hill Surgery Center.

8 MR. KIRBY: Greg Kirby on behalf of
9 same Box Hill defendants.

10 THE VIDEOGRAPHER: Court reporter
11 please swear in the witness and we can
12 proceed.

13 RITU T. BHAMBHANI, M.D.,
14 a witness called for examination, having been
15 first duly sworn, was examined and testified as
16 follows:

17 EXAMINATION

18 BY MR. ROTH:

19 Q. Good morning Dr. Bhambhani. How are
20 you?

21 A. Good, thank you.

22 Q. You understand that today I'm going
23 to question you generally about the practice at
24 Box Hill Surgical Center and the use of
25 compounded materials that were manufactured or



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1 Q. Okay. And your first job was at
2 Chesapeake Perioperative Services?

3 A. Correct.

4 Q. You are, are you board certified in
5 anesthesia and pain management?

6 A. I am.

7 Q. And, typically when we think of
8 anesthesia, we think of somebody sitting in the
9 operating room and delivering anesthesia during
10 surgery or operative procedures.

11 Do you practice that type of
12 anesthesia?

13 A. I do.

14 Q. Okay. And, can you tell me, is
15 there a difference between the practice of that
16 type of anesthesia and pain management?

17 A. Probably a broad stroke difference
18 would be anesthesia in general is done for
19 patients who are undergoing a procedure. And the
20 main role of the anesthesiologist is to have the
21 patient undergo it without undue pain, so whether
22 it is sedation or general anesthesia, where they
23 are completely asleep.

24 Pain management on the other hand is
25 where the focus is more in helping diagnose or

1 manage pain --

2 Q. Okay.

3 A. -- unrelated to surgical pain.

4 Q. Is the, your fellowship in pain
5 management focuses on that latter type of
6 treatment obviously.

7 A. Well, the fellowship itself, yes,
8 you are right. The fellowship itself encompassed
9 both acute post-operative pain. So, still
10 somewhat related to the post-surgical period.
11 That is just the nature of that particular
12 fellowship program.

13 Q. Uh-huh.

14 A. But also a bigger emphasis was on
15 non surgery related chronic pain.

16 Q. When you began your practice at
17 anesthesiology and pain, I'm sorry, Chesapeake
18 Perioperative Services, and if this is not the
19 way to ask the question you will let me know, but
20 how much of your time was spent in the operating
21 room delivering anesthesia to surgical patients
22 versus seeing patients for pain management?

23 A. So, I was brought on board by,
24 mainly by, it was a group of practicing
25 anesthesiologists and they had one physician who

1 was practicing both anesthesia and pain
2 management.

3 And he wanted to continue doing both
4 and the case load for pain management was, I
5 guess, increasing to the point where he felt that
6 the group needed to bring on another physician
7 who could see the chronic pain management
8 patients.

9 So, when I first started, it was a
10 gradual process. I was there for just a little
11 less than three years.

12 So, when I first started, he himself
13 was doing, I think two, maybe two and a half days
14 of pain, and anesthesia in the operating rooms
15 the rest of the time.

16 I probably, when I started, because
17 it was a matter of then starting off seeing
18 patients and gradually as that part of the
19 practice built up, because there was the ability
20 for us to see patients, more than just the one
21 physician, my interest was still strongly to
22 continue doing both anesthesia and pain
23 management.

24 So, we kind of shared the case load
25 for the pain procedures. So it probably started

1 off where I was seeing maybe half a day of pain
2 patients and just gradually grew a little bit
3 more.

4 By the time I left there I was
5 probably doing that anywhere from one to two days
6 a week.

7 Q. Doing that being?

8 A. Pain management. And then doing
9 anesthesia.

10 I was still taking calls for the
11 anesthesia part, which was overnight call at the
12 hospital, the same as any other member in the
13 group, and then doing anesthesia in the ORs, the
14 days I wasn't doing pain management during the
15 daytime.

16 Q. Okay. And you stayed there for a
17 little less than three years according to your CV.

18 A. Uh-huh.

19 Q. And moved on to Harford County
20 Ambulatory Surgery Center.

21 Were you the Director of
22 Anesthesiology and Pain Management the entire
23 time you were at Harford County?

24 A. Actually, no. When they hired me at
25 Harford County Ambulatory Surgery Center it was



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1 to replace an anesthesiologist who was, who had
2 retired and they had an interim anesthesiologist
3 who also was close to retiring, so they needed
4 someone to do anesthesia there.

5 When they hired me to do anesthesia,
6 I am not sure that they were aware that I was
7 pain-fellowship trained.

8 And, so that was a, that is
9 something that evolved a little bit after I had
10 already joined or started working for them.

11 And as far as the director, I was
12 the only anesthesiologist there full-time, which
13 kind of made me director by default.

14 Q. Okay.

15 A. But the pain management part
16 happened later.

17 Q. So, can you tell me when it was that
18 you became the director of pain management at
19 Harford County?

20 A. I couldn't say. I'm not sure if
21 somewhere in there, I don't know, any kind of
22 paperwork or something if they have that as
23 formally identified that I was made director of,
24 I mean, it started off where they hired me mainly
25 to be their anesthesiologist. They have two

1 operating rooms and I was covering those.

2 And, once they realized I had done a
3 pain fellowship, asked if I had an interest in
4 seeing pain patients, and I said sure.

5 So, it was my practice eventually
6 became a little bit similar to what I had done at
7 Franklin Square Hospital, where I was doing
8 anesthesia some days and pain other days. Again
9 started gradually.

10 And then by the time I think I left
11 them, I was doing about the same, maybe two days
12 of, two, two a half days of pain management, and
13 two and a half to three days of anesthesia.

14 Q. Okay. According to your CV you left
15 there in June of 2008. And that is, and started
16 Box Hill Surgery Center in July of 2008.

17 A. So, I started my practice in July of
18 2008.

19 Box Hill Surgery Center --

20 Q. I asked a bad question so let me try
21 a different thing.

22 You left Harford in June of 2008.

23 A. Yes.

24 Q. Is that correct?

25 A. Yes.

1 Q. In July of 2008, your CV says you
2 went into private practice, and was Box Hill
3 Surgery Center an existing entity at that time?

4 A. No.

5 Q. And did you start Box Hill Surgery
6 Center?

7 A. I did.

8 Q. And from 2008 to 2012, what was the
9 business, if you will, of Box Hill Surgery
10 Center?

11 A. Just Box Hill Surgery Center was
12 where I was doing, it functioned as a
13 free-standing ambulatory surgery center where I
14 was doing probably most of my chronic pain
15 procedures.

16 Q. Okay. I want to mark as
17 Exhibit 1055.

18 (Exhibit Number 1055
19 marked for identification.)

20 BY MR. ROTH:

21 Q. And this has been produced to us, it
22 has Bates number BHSC 000260.

23 MS. STEINER: Which is the earlier
24 version of the CV.

25 BY MR. ROTH:

1 Q. The version, this is a version of
2 your CV that was produced to us before today.

3 Between 2008 and 2012, and I mean
4 the end of 2012, how much of your practice was
5 pain management versus, were you doing any
6 delivery of anesthesia in the operating rooms?

7 A. I have continued to do anesthesia
8 the entire time.

9 Probably varied a little bit over
10 time when I first started my practice.

11 I picked up more anesthesia time at
12 local surgery centers as an independent
13 contractor.

14 As the pain practice got more
15 established, oh, and I was doing anesthesia for
16 Harford County Ambulatory Surgical Center
17 part-time also. And then for a period of time it
18 was fairly steady where I was doing one day of
19 anesthesia at Harford County Ambulatory Surgical
20 Center, seeing office patients three, three and a
21 half days a week and then doing procedures
22 usually a half to one day a week.

23 Q. The reason why I showed you the
24 earlier version of your CV is, it does not have a
25 section where it says current privileges active



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1 as the one that was provided today does.

2 So, there was no mention today of
3 active privileges anywhere other than Box Hill.
4 And on the CV you provided today which was 1054,
5 you list Harford County Ambulatory Surgical
6 Center and Surgical Center of White Marsh as
7 active privilege -- places where you have active
8 privileges in addition to Box Hill.

9 Did you, before, between 2008 and
10 the end of 2012, have active privileges for
11 Harford County Ambulatory Surgical Center and the
12 Surgical Center of White March?

13 A. Harford County Ambulatory Surgery
14 Center, yes. Surgical Center of White Marsh was
15 not open in 2008.

16 Gosh, I'm not sure I remember
17 exactly when they opened, but I have been going
18 there, here and there, for at least the last,
19 off-and-on, the last year or two. They were
20 not --

21 Q. The last year or two would take us
22 back to 2014.

23 A. Correct. I don't know if they
24 existed. Definitely not in 2008 and I'm not sure
25 if they existed even in 2012.



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1 Q. And you have a courtesy privilege
2 listed in your current CV at the University of
3 Maryland Upper Chesapeake Medical Center and
4 MedStar Franklin Square Hospital.

5 What does that mean?

6 A. Courtesy privileges is where they
7 have changed the definitions a little bit over
8 time, the hospitals have.

9 Currently what that is is I can go
10 in, have access to a patient record, but I'm not
11 actively, I don't have privileges to actively
12 take care of a patient.

13 Q. Okay. Between 2008 and 20, the end
14 of 2012, were you seeing patients at Harford
15 County Ambulatory Surgery Center for pain
16 management.

17 A. I did, for approximately a year.
18 Because I started the pain practice, I actually
19 got active privileges at Upper Chesapeake, to be
20 able to, I needed a place to do the procedures.
21 The office setup was not set up to be able to do
22 x-ray guided procedures.

23 So, I requested privileges at Upper
24 Chesapeake and requested to continue privileges
25 at Harford County Ambulatory Surgery Center for



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1 pain procedures.

2 I continued going to Harford County
3 Ambulatory Surgery Center even after Box Hill was
4 open for pain procedures, because even though, I
5 guess, doors were opened, the licensure process,
6 the accreditation, insurance contracts, they took
7 time.

8 So, for that initial, I'm not sure
9 exactly dates, but, probably almost a year I was
10 still doing some of my procedures at Harford
11 County Ambulatory Surgery Center.

12 Q. Okay. And, not holding you to a
13 precise time, would it be fair to say that after
14 July of 2009, say, you were not delivering pain,
15 I'm sorry, you were not seeing pain management
16 patients at Harford County?

17 A. Not on a regular basis.

18 Q. Okay. Well then let me, I just want
19 to be clear.

20 Were there times after that first
21 year, up to the end of 2012, when you would treat
22 patients, pain management patients, at Harford
23 County Ambulatory Center?

24 A. I'm not sure about 2012. But,
25 somewhere between 2009 and 2012 could I have done

1 a pain procedure, possible.

2 If, since I was still doing
3 anesthesia there, if there was, I guess, the best
4 example that comes to mind off the top of my head
5 right now is there was a physician who had seen
6 me at Harford County Ambulatory Surgery Center as
7 a patient, and he knew I worked at Harford
8 County's Ambulatory Surgery Center for
9 anesthesia, and I remember him calling me one
10 time when I was doing anesthesia there to see if
11 I could see him for his pain, for a procedure.

12 And do it over there because of some
13 insurance reason, I'm not sure what it was. But
14 it was easier for him to get it done at Harford
15 County, and I said yes.

16 So, I know I still had privileges
17 there, but I wasn't routinely going there a
18 certain day of the week or routinely doing
19 procedures there.

20 Q. When you would see patients at
21 Harford County, and again if I'm asking this the
22 wrong way, you will let me know; I'm sure your
23 lawyers will.

24 But what I'm trying to find out is
25 were these patients, were these Harford County



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1 patients or Box Hill patients?

2 A. That is easy to answer. They were
3 Ritu Bhambhani patients.

4 Q. Okay. Tell me about that.

5 A. So, the pain practice, once I left
6 Harford County Ambulatory Surgery Center,
7 patients that I saw were Ritu Bhambhani's chronic
8 pain patients.

9 Q. Okay.

10 A. A certain percentage of those
11 patients, if they needed a procedure, had the
12 option to have it done at Box Hill Surgery
13 Center, had the option to get it done at Upper
14 Chesapeake, had the option to get it done at
15 Harford County Ambulatory Surgery Center, because
16 I had privileges at all of those places.

17 So any patient that I might have
18 injected at Harford County Ambulatory Surgery
19 Center after July of 2008 would have been Ritu
20 Bhambhani's patient going to Harford County
21 Ambulatory Surgery Center where they are the
22 places where it is being done, so there is a
23 facility where it is being done.

24 But, the provider, the physician
25 would be Ritu Bhambhani.



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1 information about, you know, the equipment that
2 you would need, the medications you would need,
3 you know, the stuff you need to run an ambulatory
4 pain management center?

5 A. Since the purpose of Box Hill was
6 mainly to do procedures for my patients, and I
7 have been doing those already at the time for
8 almost eight years, I didn't necessarily ask of
9 what I would need.

10 In terms of the question of where,
11 like I said, I had been using these things at
12 Harford County, I was still actively providing
13 care there. So it was fairly simple to ask them.

14 That is a multi-specialty surgery
15 center providing other services. I was mainly
16 asking about what I was requiring for my pain
17 procedures, because I was intending to do similar
18 procedures as I was there already for years, to
19 ask where they were getting the supplies from and
20 I just continued the same.

21 Q. And do you remember who it is that
22 you spoke to at Harford to get that information?

23 A. For supplies mainly?

24 Q. I'm really thinking now about
25 medications.

1 A. Okay. For medications, mainly, it
2 would either be Barbara Wagner who does most of
3 their ordering, or it would be their nurse
4 manager, Kim Marrow.

5 Q. And is Barbara Wagner a physician?

6 A. No, she does their ordering; she is
7 a surgical tech who is, does most of their
8 ordering.

9 Q. Okay. Along the course of your
10 training in anesthesia and pain management, is
11 one of the things you learn, you know, about the
12 actual medications, the agents that provide pain
13 relief?

14 MS. STEINER: Objection as to form.
15 You can answer.

16 THE WITNESS: I'm not sure I
17 understand.

18 BY MR. ROTH:

19 Q. Sure. I mean, did you receive
20 training in what types of medications or
21 compounds worked to provide pain relief?

22 A. Where I did my residency and
23 fellowship?

24 The best that I remember for almost
25 the entire time, at least during the fellowship,



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1 don't recall making a differentiation at the
2 time.

3 Q. Okay. Have you, since using,
4 starting using preservative-free MPA, can you
5 tell me approximately when that was?

6 A. Sometime when I started doing pain
7 at Harford County Ambulatory Surgical Center.

8 I would have to guess I started
9 there in mid-2008. So, sometime around --

10 MS. STEINER: I think you are off.

11 THE WITNESS: Oh, I'm sorry, 2003.

12 So, somewhere between that and 2004.

13 BY MR. ROTH:

14 Q. Okay. And again I was really just
15 looking for an approximation.

16 A. Right, right, right.

17 Q. Because I wanted to know, since you
18 began using preservative-free MPA, and by the way
19 was that always, that was always compounded? The
20 preservative-free MPA?

21 MS. STEINER: Objection as to
22 foundation.

23 BY MR. ROTH:

24 Q. Well, was the preservative-free MPA
25 that you began using a compounded steroid?

1 A. At Harford County Ambulatory Surgery
2 Center?

3 Q. Yes.

4 A. I know they were getting it from
5 NECC because that is more so not so much
6 initially when they first started getting, like I
7 said I wasn't involved with the process of
8 getting the medication.

9 But, more so finding out where they
10 were getting it from as I was getting ready to
11 start my practice when, you know --

12 Q. Understood. So, I was looking back
13 after your conversation with, I think her name
14 was Barbara.

15 A. Yes.

16 Q. You learned they got their MPA from
17 NECC?

18 A. Correct.

19 Q. And you learned that that was a
20 compounding pharmacy?

21 A. Most likely, yes.

22 Q. Okay. In any event, since you began
23 using preservative-free MPA, did you do any
24 research or personal investigation to determine
25 whether or not steroids that had preservatives in



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1 Square, he was there. These were the
2 steroids available, this is what I used,
3 okay.

4 Over here, I was not involved in the
5 ordering process. So, I don't remember
6 asking about the actual source at the time
7 when he first -- it probably would have been
8 more a discussion between him and the person
9 ordering, or their nurse manager there at the
10 time.

11 BY MR. ROTH:

12 Q. In 2008 when you became the person
13 responsible for deciding what medications to
14 purchase for Box Hill and for your patients --

15 A. Uh-huh.

16 Q. -- until the recall, did you
17 investigate whether or not there were other
18 manufacturers of preservative-free MPA than NECC?

19 A. No.

20 Q. Are you aware or were you aware of
21 whether or not there were any preservative-free
22 steroids available other than the MPA, I'm sorry,
23 and let me set my time frame.

24 After you became responsible for
25 purchasing, for deciding what steroids would be



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1 purchased for Box Hill, until the recall, did you
2 know whether or not there was available
3 preservative-free steroids other than what you
4 were purchasing from NECC?

5 A. I had no reason to, or at least the
6 best that I remember, I don't remember having to
7 look for another source. I mentioned earlier it
8 was something that I used for years prior, so it
9 was a, not just this one thing but most of the
10 supplies that I got was a simple, kind of thing
11 to say, okay, this is where they got it from, I
12 have used this before, I was fine with it and
13 this is what I'm going to continue using.

14 If I used, like I said anything
15 other than this, I don't remember having to
16 either ask Andy or my nurse or me personally
17 thinking of let me look for an alternative.

18 Q. Okay. And again you say you don't
19 remember doing it.

20 But, between 2008 and the time of
21 the recall, was NECC your sole source for
22 injectable steroids at Box Hill?

23 A. For the most part. The only part I
24 don't remember, I know somewhere in there, there
25 were case reports of particulate steroid causing



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1 problems in cervical injections.

2 What I don't remember is if I had
3 that discussion with the nurse at Box Hill or
4 Harford County where I wanted to try a
5 nonparticulate steroid, and there is only a
6 couple of different options there that I would
7 have used that.

8 But as far as the preservative-free
9 MPA, the best I know NECC was pretty much our
10 source the entire time.

11 Q. Okay. Let me turn a little bit
12 about the decision to use NECC.

13 You said you spoke with Barbara
14 Wagner at Harford. What do you recall about your
15 conversation about using NECC?

16 A. I wouldn't recall a conversation
17 from 2008.

18 The general sense of the time was
19 getting a list of, you know, okay, she says, you
20 know, these are the gloves you used to use, this
21 is the local anesthetic that you have used for
22 the last five years, this is the skin prep you
23 have used for the last five years, this is the
24 steroid you have used, this is the pointers you
25 use, and getting that list and seeing where she



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1 was getting them from, and, reaching out to the
2 same providers of the different supplies and
3 either, you know, me myself, if I had time or
4 giving it to the nurse and saying research and
5 I'm going with that.

6 Q. When you first became responsible
7 for ordering the steroids at Box Hill, other than
8 saying, asking, I mean, is it basically Barbara,
9 where did we get the steroids from and she told
10 you it was NECC and gave you contact information?

11 A. More than likely that is how I would
12 have, like I said, not just the steroid, that
13 would have been for pretty much --

14 Q. For everything?

15 A. -- for most supplies that I would
16 use for the pain procedures.

17 Q. Okay. And when she gave you
18 information, first of all, when you were at
19 Harford, had you had any contact with anybody
20 from NECC?

21 A. Not, to the best of my recollection.

22 Q. Had any, anybody ever talked to you
23 at all, had you even heard the name NECC before
24 you asked Barbara where do we get the steroid
25 from?



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1 A. I mean, if I had, you know, in the
2 general course of being there five days a week as
3 their anesthesiologist, but I don't remember
4 anything out of the ordinary.

5 Q. Okay. Did you ever get any --
6 strike that.

7 In 2008, when you became responsible
8 for purchasing your medications and steroids and
9 Barbara tells you okay, we got this stuff from
10 NECC, did you talk to, did you find out any
11 information about how NECC, you know, did its
12 work? Made its compounds?

13 MS. STEINER: Objection as to form
14 and foundation.

15 THE WITNESS: How they made their
16 compounds?

17 BY MR. ROTH:

18 Q. Sure.

19 A. I was ordering something I had used
20 before. I have no reason to ask that particular
21 question of any of the suppliers of any of the
22 products I was getting at the time because I
23 wasn't really, in my mind at least I wasn't
24 changing anything of what I had done at an
25 established center. They were Medicare certified

1 state licensed, AAAC accredited, I had done it
2 for years over there. I was not consciously
3 making a particular change to look into anything
4 further about these specific companies, I guess.

5 Q. Okay.

6 A. Process.

7 Q. And, so, all of those things you
8 were mentioning about they were Medicare
9 approved, they were AAA, you know, rated, that
10 related to Harford, right?

11 A. Uh-huh.

12 MS. STEINER: That is a yes?

13 THE WITNESS: Yes, sorry.

14 BY MR. ROTH:

15 Q. So, in a, do I understand then
16 because they were relying on this, on these
17 providers, whether it was NECC or others, that
18 was a good enough reference for you to use those
19 providers as well when you started your own shop?

20 A. I mean, I had used those things
21 before.

22 So, the fact that I was at a place
23 that I had worked at and I had used those
24 products before for every single thing that I
25 needed to continue doing pain management, it



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1 seemed like a reasonable thing to continue using
2 the same.

3 Q. What is a compounding pharmacy? I
4 mean, do you know what a compounding pharmacy is?

5 A. If they have like a legal
6 definition, I'm not sure.

7 But, my best understanding is it is
8 a pharmacy that can put together a medication in
9 a form that a, I guess a regular manufacturing
10 company does not.

11 Q. Okay. And, do you, did you, between
12 2008 and the time of the recall, know whether or
13 not compounding pharmacies were subject to FDA
14 oversight?

15 A. Since the day I came to the country
16 I assumed every medicine is under FDA oversight.
17 So I have to admit I don't recall ever
18 specifically thinking about the, oversight over
19 compounding pharmacies specifically.

20 Q. Okay. So, I take it then you were
21 not aware that compounded drugs don't have FDA
22 findings of safety, efficacy and manufacturing
23 quality.

24 MS. STEINER: Objection as to form
25 and foundation.

1 Q. 0521. You are 100 percent right.
2 Just to be clear, I got it wrong.

3 A. And the 0521 lot again that was
4 simple. We had only used it one day and for one
5 other patient. So, again that was
6 straightforward.

7 Q. When was the lot 0521 purchased?

8 A. Not purchased from NECC.

9 After I had been contacted by
10 Mr. Rozek about Mrs. Rozek's passing away, he
11 had, I think called me on my phone to let me know
12 that she had passed away.

13 Right around the same time, I am not
14 sure of the exact dates, again I could look in
15 charts and be more certain on those. Right
16 around the same time I had received a call from
17 Ms. Dreisch that she had been to the hospital a
18 couple of times. We had done an internal, we is
19 Andy and I, had sat down and looked at our
20 internal process. The two patients had presented
21 at different hospitals, very different
22 presentations.

23 I had already spoken, when Ms. Rozek
24 passed away, I had already spoken with a
25 physician at Johns Hopkins, which was not the



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1 initial hospital where she had been admitted, who
2 had asked questions about her procedure, whether
3 there had been anything untoward during the
4 procedure.

5 I had already looked at my images
6 that I had saved from her procedure. We usually
7 save an image, usually when I inject the dye to
8 confirm needle placement.

9 Just trying to see if there was any
10 correlation.

11 They, at the time were not sure what
12 had led to her illness, either her initial
13 hospital where she was admitted based on what
14 Mr. Rozek told me or Johns Hopkins, I think I
15 spoke to the intensivist there.

16 And they were just looking at all
17 different aspects I guess, of her health prior
18 to that. And since the injection was something
19 that had happened a couple of weeks prior to her
20 being sick.

21 And then on the other side was
22 Ms. Dreisch, very different presentation,
23 different hospital, being treated for a very
24 different kind of symptom complex.

25 We just said because those were two



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1 patients who had had injections, Andy and I sat
2 down and just did an internal kind of thorough
3 review of our process to see was there anything
4 that we could identify that could tie those two
5 patients to their procedures.

6 And, not being able to explain,
7 based on anything that Ms. Dreisch had told me or
8 Mr. Rozek or the intensivist, we just sat down
9 and just kind of reviewed our process from the
10 time the patient walks in the door until the time
11 they leave. Everything that happens to them, who
12 all takes care of them, and we just decided we
13 were just going to maybe look at, is there
14 something else that we can do.

15 We could not figure out at that
16 point any correlation with the procedure. At
17 least we didn't have an explanation, none of the
18 other providers seemed to.

19 We decided, you know, if it was
20 somehow related to something that happened here,
21 is there anything else we could do? And the one
22 thing that came to mind was, well as we order
23 supplies, not knowing what it was, I told Andy,
24 let's reorder all of our injectables and anything
25 that is sterile, you know, gloves, their skin



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1 prep, what have you, and make sure no one had
2 been sick on our staff recently.

3 Because one of the things that
4 Ms. Dreisch's initial working diagnosis that she
5 was being treated for, that she had told us was a
6 viral meningitis, which is usually community
7 acquired.

8 So, I couldn't come up with anything
9 there.

10 So, thinking of that kind of a
11 transmission, I started asking all of my staff to
12 start wearing a mask if they were going to be in
13 the operating room. Prior to that I used to wear
14 a mask. I started saying well everyone wear a
15 mask.

16 So, coming to the 0521, it wasn't
17 ordered from NECC. I found out about Ms. Rozek's
18 passing away, whatever day. Andy said okay, I
19 will place a new order, then came back and said
20 well they are not going to be able to get it to
21 us prior to a certain date. You have a procedure
22 day before that. So, I reached out to Harford
23 County Ambulatory Surgery Center where I was
24 still doing anesthesia, and asked if we could
25 borrow medication from them.



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1 I borrowed that 35 vials off that
2 lot number and used it for, I think, 24 patients
3 one day and one other patient another day while
4 we placed our own order, the 21st. So, the
5 procedure is done on the 21st were done using
6 this medication, the 0521 lot that was borrowed
7 from Harford County.

8 Q. That procedure was done on
9 September 21st?

10 A. Correct.

11 Q. Were done using 0521 2012.

12 A. Right. And even earlier in that
13 week, if I remember, there might have been one
14 procedure on a day. Because, that was a few days
15 after the 17th. On the 17th already, the 17th is
16 when I found out about her passing away. I
17 talked to Andy probably right away or the next
18 day and said let's figure something out. Let's
19 sit down and go over everything. I'm going to
20 say that it was probably later that day on the
21 17th.

22 And, when we started talking about,
23 okay, what are the different things we are going
24 to do, and we decided we are going to order the
25 21st was a regular procedure day.



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1 So, by the 18th, 19th, he is like,
2 okay, well, we will order the next lot in the
3 meantime let's use, if we can borrow it from
4 Harford County, so that is what we borrowed from
5 them.

6 Q. Okay. The, did you know when you
7 contacted Harford that the MPA, the preservative-
8 free, you asked for preservative-free MPA?

9 A. That is what they were using at the
10 time. So I asked for it.

11 Q. So, you were, you knew that you were
12 using NECC provided MPA?

13 A. Yes.

14 Q. Okay. Did you call NECC after your
15 November, September 17th when you had this
16 meeting with Andy and before you got the notice
17 of recall?

18 A. I didn't call NECC or any of the
19 others. Like I said, at the time it was more
20 just trying to come up with any way to correlate
21 or to explain what those two patients were going
22 through or had gone through.

23 And, figuring out was there anything
24 in our process, not just a medicine, not an
25 injection, but just our whole, like I was even



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1 (Recess taken -- 2:53 p.m.)

2 (After recess -- 2:59 p.m.)

3 THE VIDEOGRAPHER: Back on at 2:59.

4 MR. ROTH: So could you read back my
5 last question please?

6 (Whereupon, the record was read by
7 the reporter as requested.)

8 MS. STEINER: Objection as to form
9 and foundation.

10 BY MR. ROTH:

11 Q. Yes, so let me try to rephrase the
12 question so it is a little less glib.

13 But, since the recall, have you
14 learned ways that you as a physician can, you
15 know, verify whether or not a compounding
16 pharmacy is utilizing good manufacturing
17 processes?

18 MS. STEINER: Objection as to form
19 and foundation.

20 THE WITNESS: Generally speaking,
21 right after the recall which happened on the
22 26th or the 27th of September, incidentally I
23 used to do anesthesia on Wednesday at Harford
24 County Ambulatory Surgical Center.

25 The room that I was doing anesthesia



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1 in, I think had the surgical tech who orders
2 medications there, had mentioned, I had not
3 seen the recall notice at this point, this
4 was a Wednesday during the day, had mentioned
5 that they were planning on switching, getting
6 preservative-free MPA from another pharmacy.

7 So, when the recall notice first
8 came, besides other things, but the decision
9 to get the steroid from another place at the
10 time of the recall, and not still getting any
11 indication from NECC based on my call to them
12 when I saw the recall notice, whether there
13 had been any problems.

14 I was still with the thought
15 preservative-free was the best steroid to use
16 for patients for their spinal injections. So
17 I had still intentions to continue using
18 preservative, obviously they were not
19 supplying it.

20 And since I had just the previous
21 day spoken with the person at Harford County
22 that they were switching, I said, oh, this is
23 a coincidence. Otherwise I would have no
24 idea, since the recall, since I have never
25 ordered from anywhere else, that it did make



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1 it easier for me to actually have another
2 resource already, that I could just call her
3 and get the information on who they were
4 going with.

5 I hadn't really paid that much
6 attention the day before when she said they
7 were switching, because I had no thoughts of
8 switching until that recall notice came.

9 So, I asked her to give me the name
10 of the contact person for the new pharmacy
11 they were going with.

12 And, I don't remember if I
13 personally called or if Andy called
14 requesting that an account be set up for us
15 to be able to order from them.

16 I saw the recall notice on a
17 Thursday; I still had procedures to do that
18 Friday. I could not use what I had on hand
19 from the 0629, since I had already decided
20 not to use that and had borrowed the 0521
21 from Harford County which was also on the
22 recall notice, so I couldn't use that.

23 The 0810 that had been shipped by
24 then was on the recall notice; I couldn't use
25 that.



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1 So, again, I don't remember if I
2 called or I asked Andy to call, you know,
3 Barbara had mentioned they were switching,
4 had they switched already and do they have
5 something else on hand.

6 They happen to have JCB's
7 preservative-free MPA.

8 BY MR. ROTH:

9 Q. Whose was it?

10 A. Harford County, JCB Labs, they
11 happened to have that already on hand, so we
12 borrowed that to get through my procedures on the
13 28th.

14 There was the weekend, October 1st
15 is when I got the call from the Department of
16 Health.

17 Still not understanding the extent
18 of NECC's problem, I said okay, while we started
19 to do what the Department of Health wanted us to
20 do, still under the impression it was an isolated
21 NECC problem not a, some sort of a bigger
22 compounding pharmacy's kind of an issue. As we
23 were doing what they needed us to do with these
24 patients --

25 Q. And that is the calling and



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1 notifying?

2 A. Exactly. Calling, notifying, giving
3 them information until they told us that we could
4 start calling or sending letters.

5 To come back to your question, did I
6 know any different on what to ask? So I again
7 reached back to Barb.

8 At the time she had informed me that
9 they had a pharmacy consultant that they could
10 reach out to as needed.

11 And I said, hey, as he suggested,
12 there is something I should be asking this new
13 place now that I'm getting this medication from.

14 And I think she gave me a list,
15 either of questions to ask or asking for their
16 license.

17 So, whatever I must have asked based
18 on that pharmacist suggesting to Barb, Barb
19 passing that information to me, I asked all of
20 that of JCB. Kept it, I have a JCB folder, all
21 of that stuff will be in there.

22 However, what changed my mind in
23 thinking there was anything I could do to confirm
24 that what they were giving me was sterile and
25 what I expected it to be, changed over the



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1 subsequent months as I saw either news or other
2 recall reports from other compounding pharmacies
3 having contamination in their products.

4 So, within those first few months, I
5 did use the JCB product that we initially
6 ordered.

7 But as I continued to see the news
8 reports of the other, in other states compounding
9 pharmacies having issues, at the time I had
10 decided since there is no way for me to ensure or
11 oversee or check what they were doing is right.
12 And clearly the people who are supposed to be
13 making sure what they were doing they are doing
14 right, I have no control of either, that my then
15 safest option at the time was to use steroid with
16 preservative.

17 And I switched to using preservative
18 methylprednisolone.

19 Q. Do you remember the name of the
20 consultant that Barb suggested you speak with?

21 MS. STEINER: Objection as to
22 foundation.

23 THE WITNESS: I'm sorry, she did not
24 suggest I speak, that is a resource that they
25 had that she had already spoken with.



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